

California State Lands Commission Recommends Delay in Implementation of State's Ballast Water Performance Standards

At a June 21 hearing, the California State Lands Commission approved a report for the state legislature that officially acknowledges California's statutory ballast water performance standards cannot be met with current ballast water treatment technology. The report recommends that the California legislature delay the performance standards implementation schedule "until such time that technologies can be deemed available to meet the standards."

Of the states that have established or proposed to establish state-specific ballast water discharge standards, California is the last to concur with the 2011 conclusion of the U.S. Environmental Protection Agency's independent Science Advisory Board that no commercially available ballast water treatment systems can meet a discharge standard more stringent than the International Maritime Organization's standard, which has been adopted by both EPA and the U.S. Coast Guard.

California's ballast water performance standards were enacted by the state legislature in 2006 through the Coastal Ecosystems Protection Act, which authorized CSLC to implement performance standards for all vessels capable of carrying ballast water operating in the waters of the state on a phased implementation schedule. An interim performance standard 1,000 times more stringent than the IMO standard is scheduled to become effective beginning in January 2014 for existing vessels, and a final performance standard of zero detectable living organisms for all organism size classes is required to be implemented by 2020.

CSLC's previous reports to the legislature insisted that several of the ballast water treatment systems it analyzed had "the ability to comply with" its performance standards, in spite of the SAB's findings. However, the recently approved report states that, "in light of the lack of currently available options for discharging vessels to comply with California's performance standards for the discharge of ballast water, the Commission recommends that the California Legislature amend [the Coastal Ecosystems Protection Act] to delay implementation of the standards." Although the report does not specify the length of the delay of the implementation schedule, CSLC staff is expected to recommend that the legislature effect a two-year delay.

The maritime industry has long urged CSLC to work with the California

legislature to align the state's standards with EPA and Coast Guard regulations for ballast water discharges. However, a two-year delay is unlikely to be sufficient to permit the technology advances necessary to enable compliance with the state's

performance standards. The SAB wrote that "[b]ecause of technological, logistical, and personnel constraints imposed by shipboard operations, wholly new [ballast water treatment] systems need to be developed to meet proposed standards that are 100 or 1,000 times more stringent than [the IMO standard]."

"In light of the lack of currently available options for discharging vessels to comply with California's performance standards for the discharge of ballast water, the Commission recommends that the California Legislature amend [the Coastal Ecosystems Protection Act] to delay implementation of the standards."



Although CSLC staff is commissioning a report examining the feasibility of shore-based ballast water reception and treatment facilities, its report acknowledges that "[a]t this time, there are no shore-based... facilities in California or elsewhere in the U.S."

AWO will continue to monitor the CSLC's activity, seek ways to offer industry input, and advocate for the establishment of uniform national standards for ballast water and vessel discharges.

To read the CSLC report, click [here](#). For more information, please contact Charlie Costanzo at (206) 257-4723 or ccostanzo@vesselalliance.com, or Caitlyn Stewart at (703) 841-9300 or cstewart@vesselalliance.com.

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STCW Final Rule Sent to OMB for Review

On June 27, the Office of Management and Budget announced that it has received the Department of Homeland Security's draft final rule on the Implementation of the 1995 Amendments to the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers. OMB has no more than 90 days to review the rule. Provided the agency has no substantial questions or changes, it will send the rulemaking back to DHS, then to the Office of the Federal Register for publication. Stakeholders can likely expect the final STCW rulemaking no later than October or November of this year. AWO will advise members immediately when the final rule is published.

The Coast Guard published the Notice of Proposed Rulemaking for STCW requirements in November 2009, but following industry concern elected to extend the rulemaking process with the publication of a Supplemental Notice of Proposed Rulemaking in August 2011. The SNPRM, a marked improvement over the NPRM, would:

- 1) allow other types of training, including on-board training, to count towards approved training and experience;
- 2) Allow Great Lakes and inland sea service to be credited toward STCW-required sea time; and,
- 3) Consider additional comments on the possible elimination of route and tonnage restrictions for engineering licenses.



To read the Coast Guard's SNPRM, click [here](#). To read AWO's comments, click [here](#).

Towing companies are affected by STCW requirements if they operate vessels of any size on an international voyage; operate vessels over 200

gross tons on voyages beyond the Boundary Line; or, operate towing vessels of any size on domestic voyages that pass through international waters.

For more information, please contact Brian Vahey at (703) 841-9300, extension 251, or via email at bvahey@vesselalliance.com.

Coast Guard Revises Merchant Mariner Medical and Physical Evaluation Guidelines for Certain Conditions



On June 21, the U.S. Coast Guard's National Maritime Center published Change 1 of Navigation and Vessel Inspection Circular 04-08, *Medical and Physical Guidelines for Merchant Mariner Credentials*. The updates to the NVIC focus on medical evaluations for mariners with anti-tachycardia devices or implantable cardioverter defibrillators and mariners with a history of seizures. To read the NVIC, click [here](#).

NVIC 04-08 Change 1 does not alter previous guidance that anti-tachycardia devices and ICDs are generally not waiverable medical conditions for mariners seeking officer or rating endorsements, but it provides a new enclosure (7) that describes the medical criteria that must be met in order for applicants with these devices to be considered for a waiver (see page 80 of the NVIC, linked above).

The revised NVIC also changes Coast Guard guidance concerning the evaluation of merchant mariner credential applicants with a history of seizures or convulsive disorders seeking a waiver from the NMC. While applicants with a history of seizures are generally disqualified for officer or rating endorsements, the NMC has also added a new enclosure (8) outlining certain limited extenuating circumstances in which individuals prone to both unprovoked and provoked seizures may be granted a waiver (see page 82 of the NVIC).

The Coast Guard developed this guidance in part based on public comments to its September 7, 2012, notice seeking feedback on whether its proposal to waive these medical conditions in specific circumstances would pose serious safety concerns. The Coast Guard intends to publish its response to the comments it received in a future edition of the *Federal Register*.

For more information, please contact Brian Vahey at (703) 841-9300, extension 251, or via email at bvahey@vesselalliance.com.

Foxx Sworn In As Transportation Secretary

On July 2, former Charlotte Mayor Anthony Foxx was sworn in as President Obama's Transportation Secretary, replacing Ray LaHood who had served in that position since 2009.

The new Secretary received unanimous Senate confirmation late last month.

Secretary Foxx underscored his commitment to safety in a written communication to all DOT employees, stating that "safety will remain our top priority at DOT. At the same time, I will work to improve the efficiency and performance of our current transportation system while building the infrastructure we need for future generations."

In a July 2 press statement, AWO President & CEO

Tom Allegretti offered congratulations to Secretary Foxx on behalf of the tugboat, towboat and barge industry, stating that AWO members were "especially grateful to hear Mayor Foxx express his commitment to the continued integrity of the Jones Act, echoing the long-standing position of the Obama Administration, as that law is foundational to the domestic



Former Charlotte Mayor Anthony Foxx during his swearing-in ceremony on July 2 at DOT headquarters.

maritime industry and essential to our economic and national security."

"AWO shares the Secretary's views on the importance of a safe and reliable transportation network and we look forward to discussing how deeply committed we are to our role as safety leaders and environmental stewards," Mr. Allegretti continued. "AWO has a

long history of cooperation and goodwill with the Department and we hope to continue that relationship under Secretary Foxx's very capable leadership."

For more information, please contact Ann McCulloch at (703) 841-9300, extension 252, or via email at amcculloch@vesselalliance.com.

Welcome, New Carrier Members!

G. M. Crain River Towing, Inc.
South Heights, PA 15081

Rep: Mr. Richard C. Jackson
President

Cajun Marine Transportation, Inc.
Call, TX 75933

Rep: Mr. Daniel J. Battaglia
Vice President of Operations

Welcome, New Affiliate Member!

Petro-Chem Services, LLC
Denham Springs, LA 70726

Rep: Mr. Brett Hutchinson
President

How Do You Sleep?

Modern sleep patterns cause ill health, so it is time to work out how much rest we really need.

The following story appeared in the June 26, 2013 issue of *Nature*, the international weekly journal of science. It is reprinted here in its entirety.

Sleep, as Shakespeare noted in *Macbeth*, is the chief nourisher in life's feast. But some go hungrier than others, and their ranks are increasing. Some 70 million people in the United States alone are thought to suffer from insomnia or another pathology of sleep.

Sleep is universal, but there is decent evidence that we are doing it wrong. That we need eight hours of sleep a night to function is a myth; that we need our shut-eye in one continued bout is unlikely. Before artificial lights, people went to bed earlier. And it was once more common to have two night-time sleeps, separated by a productive period of wakefulness.

Scientists cannot say for sure how much sleep we need, or when we should take it. As chronobiologist Till

Roenneberg points out in a Comment on page 427, part of the reason is that most studies of sleep are done in laboratories. He proposes a radical solution: a US\$30-million global human sleep project that would start with online logs of the sleep habits of millions of volunteers and finish with DNA tests to work out where those habits come from.

"The practice of going to sleep and waking at unnatural times could be the most prevalent high-risk behaviour in modern society," says Roenneberg. Many workers at present, he says, could suffer from a form of social jet lag, forced to shuffle sleep patterns between the conflicting time zones of working and work-free days. That could cause poor health — both physical and mental. The solution would be a profound change: restructure work and school schedules to better suit the biological clocks of the majority of the population, once we work out what they are.



"Sleep is universal, but there is decent evidence that we are doing it wrong. That we need eight hours of sleep a night to function is a myth; that we need our shut-eye in one continued bout is unlikely."

The modern world fragments time. We work on call and watch 24-hour news. Television is on-demand and breakfast usually available all day. We sleep when we can, if we can. Sleep has become another demand on us, and one that we like to allot to a specific window of our daily diary. That is a difficult habit to break for scientists as much as anybody, given their often long hours and frequent travel.

People in many countries get as much as two hours less sleep a night than their ancestors did a century or so ago. That must have a consequence. Lack of sleep may not make our hungry lives longer, it just feels that way.

SCI Mountain Challenge Update – Take Time to Give Today!

Have you had a chance to check out Team AWO's page on the SCI Mountain Challenge [website](#)? The entire AWO staff is very excited, both for our participants Tom Allegretti, Brian Bennett, Jennifer Carpenter, Lynn Craig, Brian Vahey and Mark Wright, and for the chance to help raise money for and awareness of the extraordinarily important work of The Seamen's Church Institute. Team AWO is up to the task, spending their time outside of the office training hard to meet this challenge.

We are asking that AWO member companies to help out by contributing

to Team AWO's fundraising effort at the Platinum (\$5,000), Gold (\$2,500) or Silver (\$1,000) level. Please consider how much your company can donate and visit the [fundraising portal](#) today. Contributions of any size will be greatly appreciated.

Checks made payable to Seamen's Church Institute of New York and New Jersey may also be sent to AWO, 801 North Quincy Street, Suite 200, Arlington, VA 22203, to the attention of Carmina Smith. Corporate checks are permissible and contributions are fully tax-deductible.

Remember, all members who support Team AWO team will be visibly recognized both in our publications and at the AWO Fall Convention in October. We can't reach our goal of \$100,000 without your generous support – please donate today!

For more information on the SCI Mountain Challenge, please contact Ann McCulloch at (703) 841-9300, extension 252, or via email at amcculloch@vesselalliance.com.



AWO Submits *Amicus Curiae* Supporting Blessey Marine

On July 5, AWO filed an amicus curiae brief supporting Blessey Marine Services in the U.S. Court of Appeals for the Fifth Circuit in *Coffin v. Blessey Marine Services*. The Fifth Circuit granted the appeal based on an adverse ruling from the U.S. District Court for the Southern District of Texas that the work performed by Blessey Marine tankermen did not fall under the “seaman’s exemption” for overtime under the Fair Labor Standards Act.

The case involves a group of tankermen that brought suit against Blessey alleging they were misclassified as exempt from overtime under the FLSA, and, as a result, deprived all of them overtime pay they were entitled to under the FLSA. AWO’s Executive Committee and Board of Directors unanimously approved AWO’s filing of a brief last month. AWO’s brief contends that the tankermen qualify as seaman under the FLSA because they were subject to the direction of the master on the vessel and their work contributed to the mission of the vessel.

The brief also distinguishes this case from *Owens v. SeaRiver Maritime* that held land-based members of a strike team whose primary responsibilities were loading and discharging cargo were not exempt seaman under the FLSA. The brief states that when loading and unloading a vessel is performed by a member of the crew, they contribute to the mission of the vessel and qualify as seaman’s work, arguing that, “that holding is best understood as reflecting a straightforward application of the longstanding distinction between land-based workers, who are not seaman, and vessel-based workers who may be seaman.”

AWO’s brief also says that finding the tankermen are non-exempt from the FLSA would undermine settled expectations and would disrupt commerce on the inland waterways. If the court rules that tankermen are not exempt from the FLSA “would require maritime employers to keep very detailed records of the daily tasks performed by all tankermen employed on their vessels to estimate whether they engaged in loading and unloading activities for more than 20% of their workweek. If they did, they would be nonexempt workers entitled to overtime compensation. If they did not, they would be exempt seamen who could be paid the prevailing day rate, as is every other crewmember.” The brief concludes that “holding otherwise would unduly disrupt an established and efficient component of the nation’s interstate commerce system without advancing FLSA’s goals.”

To read the brief, click [here](#). For more information, please contact please contact Jennifer Carpenter or Brian Bennett at (703) 841-9300, extensions 260 and 279, respectively, or jcarpenter@vesselalliance.com or bbennett@vesselalliance.com.

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Recreational Boating Season is Here!

Order Your Lifelines Brochures Now!

AWO urges recreational boaters to use special caution when operating around commercial vessels and to educate themselves on the constraints under which those vessels operate. AWO’s popular brochure, entitled “Lifelines: Safety Tips That Could Save Your Life,” delivers important safety tips to recreational boaters in an easy-to-read, user friendly format.

To request copies of the brochure, please email your request to Frank Leach at fleach@vesselalliance.com. This brochure is free; however, there is a cost for shipping. Order your brochures today! 🍀



Got Links?

If you receive a hard copy of the *AWO Letter* and need to know the exact Web addresses of the hyperlinks in any articles, please contact Frank Leach at (703) 841-9300, extension 254, or via email at fleach@vesselalliance.com. 🍀



Midcontinent Office

CAPT Timmee Welcomed in Sector Ohio Valley Change of Command

On June 21, RADM Kevin S. Cook presided over the Sector Ohio Valley Change of Command as CAPT Larry W. Hewett relinquished command to CAPT Richard V. Timme in Louisville.

CAPT Timme served as the commanding officer of Marine Safety Unit in Pittsburgh from 2009-2012, and he will be presenting at the Interregion and Coastal Safety

Committees Joint Meeting in August on Coast Guard-industry safety collaboration. CAPT Hewett's next assignment is Chief, Atlantic Area Preparedness Division. 🌐



AWO members thanked CAPT Hewett for his partnership and leadership with a Gary Lucy print and plaque. From left to right: Mark Knoy, American Commercial Lines, Inc.; Lynn Muench, AWO; Richard Kern, Ingram Barge Company; Bill Barr, Amherst Madison, Inc.; Fred Nyhuis, Marathon Petroleum Company, LP; Les Grimm, Ingram Barge Company; Mike Somales, CONSOL Energy Sales Company; CAPT Hewett; and, Paul Tobin, American Commercial Lines, Inc.

Ninth Coast Guard District Holds Change of Command

On June 27, RDML Fred M. Midgette relieved RADM Michael Parks of the Ninth Coast Guard District command which spans the Great Lakes and the first 100 miles of the Illinois Waterway and houses electric fish barriers. RDML Midgette previously served in the Ninth District as the commander of Sector Detroit and as the Ninth District Chief of Staff. RADM Parks is retiring in the Cleveland area. 🌐



RDML Fred Midgette shares remarks during a change of command ceremony. (U.S. Coast Guard Photo by Petty Officer 2nd Class Levi Read)

Atlantic Region**BOEM Scales Back NC Wind Map in Response to Industry Input**

On June 19, the Bureau of Ocean Energy Management met with AWO to continue critical dialogue between the agency and the industry regarding wind energy areas off the shore of North Carolina. The updated North Carolina Call Area maps presented by BOEM were heavily influenced by industry input compiled in AWO's May commentary. Those comments can be viewed [here](#). John Harms, Atlantic Region Manager, and Kevin Dowling, Government Affairs Associate, represented AWO. The BOEM Office of Renewable Energy Programs was represented by Brian Krevor, Environmental Protection Specialist, Jennifer Golladay, Energy Program Specialist and William Waskes, Oceanographer. The Coast Guard played an observer role and was represented by Emile Bennard,

ACPARS Program Manager and Lt. Kimberly Johnson.

BOEM's original proposals for North Carolina wind energy sites obstructed or threatened important vessel routes utilized by AWO members. AWO comments submitted in May cited significant concerns about the safety of vessels coming in and out and the port of Wilmington, NC, and called on BOEM to relocate or eliminate the Wilmington East call area. AWO also called for shifting the Kitty Hawk Call Area to at least 15 miles off the coast to create a safe operating area between the shore and western boundary of the proposed wind farm. Both of the above comments were taken seriously by

BOEM, who presented a series of alternative maps at the meeting showing serious changes in light of these concerns. Alternative maps for the

Wilmington East area presented by BOEM's Will Waskes showed a significantly scaled back wind energy area allowing safe leeway for vessels

navigating to its north and south. Click [here](#) to view that map.

BOEM also presented several alternative maps for the Kitty Hawk area, all of which were significantly scaled back in size and offered between 12 and 26 miles between the coast and the western boundary. The National Park service has consistently demanded that the Kitty Hawk area be located at least 26 miles offshore as to not obstruct the view from Cape Hatteras National Seashore. The modified proposed maps for the Kitty Hawk area can be viewed [here](#).

AWO will continue to seek member input on the alternative North Carolina maps. BOEM expressed a desire not to alter any current vessel behavior as they site wind energy projects and AWO will continue to work closely with them to protect preexisting vessel routes. AWO is also actively engaged with the state and federal decision makers overseeing the siting of wind energy projects off the coasts of Maryland and Delaware. For more information on this issue please contact Kevin Dowling at (703) 841-9300, extension 264 or at kdowling@vesselalliance.com.

**CEMS Training Opportunities Available**

The Crew Endurance Management System is a system for managing risk factors in maritime work environments that can lead to human error and performance slumps. The U.S. Coast Guard and AWO have been working together to help companies implement the principles of CEMS. The courses listed on the right are CEMS coaches classes, which are conducted by Salyers Solutions, LLC. For questions on these courses, please contact Jo Ann Salyers at (504) 236-4962 or via email at joann@salyerssolutions.com.

July 9 & 10
Salyers Solutions, LLC
Las Vegas, NV

Do You "Like" AWO Yet?

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